



# **Local Governance Support Program (LGSP)**

**CREDIT CONTROL AND DEBT COLLECTION**

**CLUSTER TECHNICAL WORKING SESSION**

# **Local Governance Support Program (LGSP)**

**Credit Control and Debt Collection**

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## **PART ONE: ILLUSTRATIVE CREDIT CONTROL & DEBT COLLECTION POLICY**

### **FOREWORD**

The Illustrative Credit Control and Debt Collection Policy set out hereunder is intended to give guidance to municipalities who have as yet not developed a comprehensive policy on these issues or alternatively who wish to revise their policy to ensure that it is aligned to all legislation impacting on credit control and debt collection. It is stressed, however, that municipalities must carefully scrutinize each specific clause of the policy and adapt it to suit their particular requirements

### **1. OBJECTIVE AND CONSTITUTIONAL OBLIGATIONS**

The council of the municipality, in adopting this policy on credit control and debt collection, recognises its constitutional obligation to develop the local economy and to provide acceptable services to its residents. It simultaneously acknowledges that it cannot fulfil these constitutional obligations unless it exacts payment for the services which it provides and for the rates which it legitimately levies – in full from those residents who can afford to pay, and in accordance with its indigency relief measures for those who have registered as indigents in terms of the council's approved indigent management policy.

### **2. EXPECTED FUTURE PAYMENT LEVELS**

In terms of the budgets approved by the council, and in accordance with commonly accepted best practice, this municipality will strive to ensure that payment levels for the present and future financial years, in respect of all amounts legitimately owing to the municipality – that is, inclusive of the balance of the monthly accounts payable by registered indigents – are maintained at an annual average of at least 95%.

It is generally accepted by the council that payment levels averaging below 95% per month are untenable and are a certain forerunner of financial disaster for the municipality. Even with payment levels of 95%, it means that the council will annually have to provide on its expenses budget, a contribution to bad debts of 5% of the aggregate revenues legitimately owing to the municipality – a contribution that is made at the expense of improved service delivery and developmental projects.

The only solution to the ongoing problem of non-payment by residents who can afford their monthly commitments to the municipality is to introduce a twofold approach: to promulgate credit control and debt collection by-laws which deal stringently with defaulters, but at the same time – through the formal political structures of the municipality, and in the administration's general dealings with the public – to make the community aware of its legal obligations towards the municipality, and to emphasise the negative consequences for all, if non-payment continues. The municipality's ward committees are particularly charged with this responsibility.

### **3. NOTICE OF DEFAULT TERMINATION / RESTRICTION OF SERVICES**

Within seven calendar days after each monthly due date for the payment of municipal accounts for property rates and/or service charges, the municipal manager shall dispatch to every defaulting accountholder, that is, every accountholder who as at the date of the notice, has not paid the monthly account in full or has not made an acceptable arrangement with the municipal manager for partial or late payment, a notice stating that unless full payment is received or an acceptable arrangement made with the municipal manager for partial or late payment, the municipal electricity or water supply or both such supplies to the property to which the account in arrears relates, shall be terminated or restricted fourteen calendar days after the date of the notice concerned.

### **4. RECONNECTION OR REINSTATEMENT OF SERVICES**

Services to defaulting accountholders which have been terminated or restricted in terms of paragraph 3 above shall be reconnected or reinstated by the municipal manager only when all the following conditions have been met:

- i) the arrear account has been paid in full, including the interest raised on such account; or an acceptable arrangement has been made with the municipal manager for the payment of the arrear account, including the interest raised on such account;
- ii) the charge(s) for the notice sent in terms of paragraph 3 and for the reconnection or reinstatement of the terminated or restricted service(s), as determined by the council from time to time, have been paid in full;
- iii) a service contract has been entered into with the municipality, as contemplated in paragraph 10 below; and
- iv) a cash deposit has been lodged with the municipal manager in compliance with paragraph 11, such deposit to be newly

determined on the basis of currently prevailing consumption and usage of services in respect of the property concerned or, if insufficient data is available in regard to such consumption, of the currently prevailing consumption and usage of services in respect of a comparable property.

- v) In the case of consumers using prepaid meters, but who have fallen into arrears with the remainder of their obligations to the municipality, no prepaid purchases shall be accepted until the outstanding arrears have been settled or an acceptable arrangement made for the payment of the arrear account, as contemplated above: such arrangement may entail the limitation of the amount of prepaid services which may be purchased until the arrears or a stated percentage of the arrears has been settled.

## **5. PERIODS FOR RECONNECTIONS OR REINSTATEMENTS**

The municipal manager shall reconnect or reinstate terminated or restricted services within 3 (three) working days after the date on which the conditions set out in paragraph 4 have been met, unless the municipal manager is unable to do so because of circumstances beyond the control of the municipality. In the latter event the municipal manager shall promptly inform the mayor of such circumstances and of any actions required to overcome the circumstances concerned.

## **6. ILLEGAL RECONNECTIONS**

The municipal manager shall, as soon as it comes to the notice of the municipal manager that any terminated or restricted service has been irregularly reconnected or reinstated, report such action to the South African Police Service, disconnect or restrict such service(s), and not reconnect or reinstate such service(s) until the arrear account, including the interest raised on such account, the charges for the notice sent in terms of paragraph 3 and the charges for both the original and subsequent reconnection or reinstatement of the service(s) and the revised deposit have been paid in full, together with such penalty as may be determined by the council from time to time. In addition, all metered consumption since the date of the illegal reconnection or the estimated consumption if a reliable meter reading is not possible, shall also be paid in full before any reconnection or reinstatement is considered.

## **7. RESTRICTION OF SERVICES**

If the municipal manager is of the opinion that the termination of services, in the case of a particular property in respect of which the account is in arrear, is not in

the best interests of the community – specifically because of the potential endangerment of the life of any person, whether resident in or outside the property concerned – the municipal manager may appropriately restrict rather than terminate the services in question.

#### **8. SERVICES NOT RECONNECTED /REINSTATED AFTER 4 WEEKS**

If services have been terminated or restricted in the case of a property in respect of which the account is in arrear, and the accountholder has not paid such arrears, including the interest raised on such account, or made an acceptable arrangement with the municipal manager for the payment of the arrear account, including the interest raised on such account, within a period of 28 (twenty eight) calendar days after the date of termination or restriction of the service(s) concerned, the municipal manager shall forthwith hand such account over for collection and such further action as is deemed necessary to the municipality's attorneys or any debt collecting agency appointed by the council. Such further action shall include if necessary the sale in execution of such property to recover arrear property rates and service charges (if the accountholder is also the owner of the property), subject to all legal requirements in regard to the sale of such property being complied with. All legal expenses incurred by the municipality shall be for the account of the defaulting accountholder.

#### **9. ARRANGEMENTS FOR PAYMENT OF ARREAR ACCOUNTS**

Allowing defaulting accountholders to make arrangements for the payment of arrear accounts shall be at the discretion of the municipal manager.

Each defaulting accountholder shall be allowed a maximum period of 3 (three) months within which to pay an arrear account, together with the interest raised on such account, and it shall be a condition for the conclusion of any arrangement that the accountholder is bound to pay every current municipal account in full and on time during the period over which such arrangement extends.

If an accountholder breaches any material term of an arrangement, the balance of the arrear account, together with the balance of interest raised on such account, shall immediately become due and payable to the municipality, and if the accountholder defaults on such payment, the municipal manager shall terminate or restrict services to the property in question and shall forthwith hand such account over for collection as envisaged in paragraph 8.

An accountholder who has breached an arrangement as set out above shall not be allowed to make any further arrangements for the payment of arrear accounts, but shall be proceeded against, after the dispatch of the initial notice of default as envisaged in paragraph 3 and failure by the accountholder to pay the arrear account, together with interest raised on such arrears as required in terms of

such notice, as though such accountholder had breached a material term of an arrangement.

## **10. SERVICE CONTRACT**

A service contract shall henceforth be entered into with the municipality for each property to which the municipality is expected to provide all or any of the following services:

- i) electricity
- ii) water
- iii) refuse collection
- iv) sewerage.

Such contract shall set out the conditions on which services are provided and shall require the signatory to note the contents of the municipality's credit control and debt collection policy, a copy of which shall be provided to such signatory, as well as the provision of the Municipal Systems Act in regard to the municipality's right of access to property.

Where the signatory is not the owner of the property to which the services are to be provided, a properly executed letter from such owner indicating that the signatory is the lawful occupant of the property shall be attached to the service contract.

Current consumers and users of the municipality's services who have not entered in a service contract as envisaged above, must do so within 2 years from the date on which the by-laws to implement the present policy are published, and failure to do so shall be considered as a default equivalent to non-payment in terms of paragraph 3 above.

## **11. PAYMENT OF DEPOSITS**

Whenever a service contract is entered into in terms of paragraph 10, the signatory shall lodge a cash deposit with the municipality, such deposit to be determined as follows:

- i) In the case of the signatory's being the registered owner or spouse of the registered owner of the property concerned, an amount equal to one quarter of the aggregate monetary value of the relevant service(s) provided to the property over the immediately preceding 12 (twelve) month period, or – where no such information is available – one quarter of the aggregate monetary value of the relevant service(s) provided to a comparable property over the immediately preceding 12 (twelve) month period;



- ii) In the case of the signatory's not being the registered owner or spouse of the registered owner of the property concerned, an amount equal to one third of the aggregate monetary value of the relevant service(s) as determined above.

## **12. ALLOCATION OF PART-PAYMENTS/APPROPRIATION OF DEPOSITS**

If an accountholder pays only part of any municipal account due, the municipal manager shall allocate such payment as follows:

- i) firstly, to any unpaid charges levied by the municipality in respect of unacceptable cheques, notices, legal expenses and reconnections or reinstatements of services in respect of the account or property concerned;
- ii) secondly, to any unpaid interest raised on the account;
- iii) thirdly, to any unpaid sewerage charges;
- iv) fourthly, to any unpaid refuse collection charges;
- v) fifthly, to any unpaid property rates;
- vi) sixthly, to any unpaid water charges; and
- vii) lastly, to any unpaid electricity charges.

This sequence of allocation shall be followed notwithstanding any instructions to the contrary given by the accountholder.

In the event of an accountholder's defaulting on the payment of an arrear account, as contemplated in paragraphs 6, 8 and 9, the municipal manager shall forthwith appropriate as much of such deposit as is necessary to defray any costs incurred by the municipality and the arrear amount owing to the municipality in the same sequence that is applicable to the allocation of part payments, as contemplated above.

## **13. QUERIES BY ACCOUNTHOLDERS**

In the event of an accountholder reasonably querying any item or items on the monthly municipal account, no action shall be taken against the accountholder as contemplated in paragraph 3, provided the accountholder has paid by due date an amount equal to the monthly average monetary value of the three most recent un-queried accounts in respect of the service under query, as well as all un-queried balances on such account, and provided further such query is made in writing by the accountholder or is recorded in writing by the municipal manager on behalf of the accountholder on or before the due date for the payment of the relevant account. Any query raised by an accountholder in the circumstances contemplated in paragraph 14 below, shall not constitute a reasonable query for the purposes of the present paragraph.

#### **14. INABILITY TO READ METERS**

If the municipality is unable to read any meter on any property because the meter has been rendered inaccessible through any act or omission of the accountholder or owner of the property concerned, the municipal manager shall estimate the consumption of the service concerned by determining the monthly average of the metered consumption recorded on the three most recent accounts in respect of which meter readings were obtained, and thereafter bill the accountholder for the monetary value of such estimated consumption plus a provisional surcharge of 10% of such value for the first month in which the metered reading could not be obtained, escalating to 20% in the second month, 30% in the third month, and so on by 10 percentage points for each subsequent month, until the meter is again rendered accessible. The accountholder shall be liable for the initial payment of such surcharge(s) as though the surcharge were part of the service charge concerned, but the municipal manager shall reverse such surcharge(s) against the first account for which a meter reading is again obtained.

#### **15. DISHONoured AND OTHER UNACCEPTABLE CHEQUES**

If an accountholder tenders a cheque which is subsequently dishonoured by or is found to be unacceptable to the accountholder's bankers, the municipal manager shall – in addition to taking the steps contemplated in this policy against defaulting accountholders – charge such accountholder the penalty charge for unacceptable cheques, as determined by the council from time to time, and such charge shall rank equally with the costs and expenses incurred by the municipality for purposes of determining the sequence of allocations and appropriations contemplated in paragraph 12.

#### **16. DELEGATION OF RESPONSIBILITIES BY MUNICIPAL MANAGER**

The municipal manager, including any person acting in such capacity, shall be responsible to the council for the implementation of this policy and its attendant by-laws but – without in so doing being divested of such responsibility – may delegate in writing all or any of the duties and responsibilities referred to in these by-laws to any other official or officials of the municipality, and may from time to time in writing amend or withdraw such delegation(s).

#### **17. ROLE OF MUNICIPAL MANAGER**

Section 100 of the Municipal Systems Act 2000 (see paragraph 24 below) clearly assigns the legal responsibility for implementing the credit control and debt collection policies and by-laws to the municipal manager.

In practice, however, the municipal manager will inevitably delegate some or many of the responsibilities specifically assigned to his office in the by-laws, as it

will be administratively impossible for the municipal manager to perform the numerous other functions of his office as well as attend to frequently recurring administrative responsibilities. However, such delegation does not absolve the municipal manager from final accountability in this regard, and the municipal manager will therefore have to ensure that a proper internal reporting structure is established and consistently implemented so that the day-to-day actions of, and results from, the credit control and debt collection programme are properly monitored and supervised.

It is also an integral feature of the present policy that the municipal manager shall report monthly to the executive mayor or the executive committee, as the case may be, and quarterly to the council on the actions taken in terms of the by-laws, and on the payment levels for the periods concerned. Such reports shall, as soon as practicably possible, provide the required information both in aggregate and by municipal ward.

In addition, such monthly report shall indicate any administrative shortcomings, the measures taken or recommended to address such shortcomings, and any actions by councillors which could reasonably be interpreted as constituting interference in the application of the by-laws.

Notwithstanding all the foregoing references to the accountability of the municipal manager in regard to these by-laws, it is incumbent on all the officials of the municipality, certainly all those who are at management level, as well as more junior officials who are directly or indirectly involved with the community and the municipality's general customer relations, to promote and support both this credit control and debt collection policy and the application of the attendant by-laws. The responsibilities of all officials include reporting to the municipal manager any evident breaches of these by-laws, whether by members of the community, other officials or councillors of the municipality.

## **18. ROLE OF COUNCILLORS**

Section 99 of the Municipal Systems Act, 2000 places the important legal responsibility on the executive mayor or executive committee, as the case may be, of monitoring and supervising the application of the present policy and the attendant by-laws, and of reporting to the council on the extent and success of credit control actions.

The present policy further recommends that the municipality's ward committees be actively involved in implementing the credit control and debt collection programme, and should therefore receive monthly reports on the status of the municipal manager's credit control actions. The ward committees must also actively promote the present policy, and ensure at the same time that the municipality's customer relations are of a standard acceptable to the community.

In order to maintain the credibility of the municipality in the implementation of the present policy and the attendant by-laws, it is essential that councillors should lead by example. Councillors, by adopting this policy, therefore pledge, not only their unqualified support for the policy, but their commitment to ensuring that their own accounts will at no stage fall into arrears.

## **19. INTEREST ON ARREARS AND OTHER PENALTY CHARGES**

Interest shall be charged on all arrear accounts at the prevailing overdraft rate offered by the municipality's bankers plus 2 (two) percentage points.

If the municipality uses more than one banking institution it shall for purposes of determining the interest on arrear accounts apply the overdraft rate offered by the institution with which its primary bank account is placed.

Interest shall be calculated on a daily basis. For purposes of determining arrear amounts, all amounts unpaid including interest previously raised and penalty charges, but excluding value added tax, shall be taken into account.

In considering each annual budget the council shall review the adequacy of its interest charges, and shall determine the following for the financial year concerned:

- i) charges for disconnection or restriction of services (paragraph 3)
- ii) charges for reconnection or reinstatement of services (paragraph 4)
- iii) charges for notices of default (paragraph 3)
- iv) penalty charges for illegal reconnections (paragraph 6)
- v) penalty charges for dishonoured cheques (paragraph 15).

## **20. INDIGENCY MANAGEMENT**

In regard to the payments expected from registered indigents, and the credit control and debt collection actions contemplated in respect of such residents, this policy must be read in conjunction with the municipality's approved policy on indigency management.

## **21. UNCOLLECTIBLE ARREARS**

The effective implementation of the present policy also implies a realistic review of the municipality's debtor's book at the conclusion of each financial year. The municipal manager shall as soon as possible after 30 June each year present to the council a report indicating the amount of the arrears which it is believed is uncollectible, together with the reasons for this conclusion.

The council shall then approve the write off of such arrears, if it is satisfied with the reasons provided.

## **22. ARREARS ARISEN PRIOR TO ADOPTION OF PRESENT POLICY**

The council shall separately consider arrears which arose prior to the adoption of the present policy, and shall advise accountholders of their respective obligations in regard to such arrears. In determining such obligations, the council shall have regard to the quantum of such arrears, to the period over which the default occurred, and to whether the accountholder concerned has registered as an indigent in terms of the municipality's policy on indigent management. The council shall further consider an incentive scheme which will appropriately encourage accountholders to settle all or a stated percentage of these arrears.

## **23. BY-LAWS TO BE ADOPTED**

By-laws shall be adopted to give effect to the council's credit control and debt collection policy.

These by-laws shall deal severely with defaulters, and their application will require a considerable degree of commitment from the municipal manager and his or her administration, as well as from the municipality's political structures. For these by-laws to ensure the avoidance of financial misfortunes for the municipality, and to lead to sustained financial stability, their application will have to receive the constant attention of all the municipality's key role-players and decision makers. If these by-laws are not constantly and consistently applied, from month to month and from year to year, the municipality's political and administrative credibility will be severely impaired, and it may not be able to avert financial collapse in the long run.

Although the by-laws envisage even the termination of basic services for defaulting accountholders, this will not in itself – no matter how harsh it may seem to those councillors and officials who are disposed to greater leniency – prevent the accumulation of arrears. The monthly billing for property rates, sewerage charges and refuse removal fees will continue in respect of defaulting accountholders, even though their consumption of electricity and water may have been terminated or restricted. The termination or restriction of services must therefore be seen merely as a vital first step in the credit control programme, and the commitment by the municipality to follow up such actions with the full force of the law at the municipality's disposal, is an essential further step if the accumulation of debts is to be meaningfully curtailed.

The by-laws must comply with the requirements of the Municipal Systems Act 2000, the Water Services Act 1997 and the Municipal Finance Management Act 2003.

The by-laws must also deal with the determination and payment of consumer deposits, and in accordance with paragraph 11 of the present policy, effectively differentiate in this respect between accountholders who are both the owners and occupiers of the fixed property concerned, on the one hand, and accountholders who are tenants of such properties, on the other. This differentiation is essential if the municipality wishes to protect its interests in so far as tenants are concerned, but – in any event – it is not believed that a degree of differentiation imposes an unreasonable financial burden on such tenants. Effectively the deposit required from owners/occupiers represents three months average consumption whereas the deposit in the case of tenants represents four months consumption.

It is not proposed that accountholders who have currently not lodged deposits should be required to do so forthwith, [but only within a two-year period](#), but that accountholders who default at any future date should be immediately obliged both to sign proper service contracts and to lodge the deposits required in terms of both such contract and the by-laws.

## **24. ANNEXURE: LEGAL REQUIREMENT**

It is essential for the protection of the municipality's interests that the provisions of particularly the Municipal Systems Act, 2000 and the Property Rates Act, 2004, in so far as they provide additional debt collection mechanisms for municipalities, be diligently enforced. At the same time, both the council and the administration must note the obligations, which the municipality has towards the community in respect of customer care and relations.

For ease of reference a paraphrase of the relevant extracts from the Municipal Systems Act, specifically Sections 95 to 103 and Section 118 are therefore appended to this policy, as are Sections 28 and 29 of the Property Rates Act. The immediately relevant extracts from the Water Services Act 1997 and the Municipal Finance Management Act, 2003 are also included in the annexure.

## **CONCLUDING COMMENTS ON ILLUSTRATIVE POLICY**

It is stressed that the illustrative policy set out above merely includes some of the important provisions relating to credit control and debt collection. Each municipality would, however, have to adjust and expand on it to suit its particular requirements. In addition, a clause relating to the date of acceptance by the municipal council of the policy and its date of implementation would also have to be included. Should the municipality already have a credit control and debt collection policy which it wishes to replace, the municipal council would have to pass a resolution to this effect and indicate that the new policy supersedes all previous policies that have been adopted by the council in this respect.

## **PART TWO LEGAL FRAMEWORK FOR CREDIT CONTROL AND DEBT COLLECTION**

### **Annexure**

The provisions of the Local Government: Municipal Systems Act, No. 32 of 2000, the Municipal Finance Management Act, No 56 of 2003, the Municipal Property Rates Act, No 6 of 2004 and the Water Services Act, No 108 of 1997 impact on credit control and debt collection process implemented by municipalities. The relevant provisions of the Acts are therefore set out hereunder for easy reference.

#### **1. LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, NO. 32 OF 2000**

##### ***Section 95: Customer Care and Management***

A municipality must, in relation to the levying of rates and other taxes, and the charging of fees for municipal services, within its financial and administrative capacity, do the following:

- a) establish a sound customer management system which aims to create a positive and reciprocal relationship between persons liable for these payments and the municipality itself or (where applicable) a service provider;
- b) establish mechanisms for users of services and ratepayers to give feedback to the municipality or other service provider with regard to the quality of the services and the performance of the service provider;
- c) take reasonable steps to ensure that users of services are informed of the costs involved in service provision, the reasons for the payment of service fees, and the manner in which moneys raised from the service are utilised;
- d) where the consumption of services is measured, take reasonable steps to ensure that the consumption by individual consumers of services is measured through accurate and verifiable metering services;
- e) ensure that persons liable for payments receive regular and accurate accounts which indicate the basis for calculating the amounts due;
- f) provide accessible mechanisms for those persons to query or verify accounts and metered consumption, as well as appeal procedures which allow such persons to receive prompt redress for inaccurate accounts;

- g) provide accessible mechanisms for dealing with complaints from such persons, together with prompt replies and corrective action by the municipality;
- h) provide mechanisms to monitor the response time and efficiency in complying with the aforementioned requirements; and
- i) provide accessible pay points and other mechanisms for settling accounts or for making prepayments for services.

### ***Section 96: Debt Collection Responsibility of Municipalities***

A municipality must collect all moneys that are due and payable to it, subject to the requirements of the present Act and any other applicable legislation. For this purpose, the municipality must adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariff policies and which complies with the provisions of the present Act.

### ***Section 97: Contents of Policy***

The municipality's credit control and debt collection policy must provide for all of the following:

- a) credit control procedures and mechanisms;
- b) debt collection procedures and mechanisms;
- c) provision for indigent debtors in a manner consistent with its rates and tariff policies and any national policy on indigents;
- d) realistic targets consistent with generally recognised accounting practices and collection ratios, and the estimates of income set in the budget less an acceptable provision for bad debts;
- e) interest on arrears (where appropriate);
- f) extensions of time for payment of accounts;
- g) termination of services or the restriction of the provision of services when payments are in arrears;
- h) matters relating to unauthorised consumption of services, theft and damages; and
- i) any other matters that may be prescribed by regulation in terms of the present Act.

The municipality, within its discretionary powers, may differentiate in its credit control and debt collection policy between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters, and, if so, must ensure that such differentiation does not amount to unfair discrimination.



### ***Section 98: By-Laws to Give Effect to Policy***

The council of the municipality must adopt by-laws to give effect to the municipality's credit control and debt collection policy, its implementation and enforcement.

Such by-laws may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters, and, if so, must ensure that such differentiation does not amount to unfair discrimination.

### ***Section 99: Supervisory Authority***

A municipality's executive mayor or executive committee, as the case may be, or – if the municipality does not have an executive committee or executive mayor – the council of the municipality itself, or a committee appointed by the council as the supervisory authority, must do all of the following:

- a) oversee and monitor the implementation and enforcement of the municipality's credit control and debt collection policies and any by-laws enacted in terms of the foregoing requirements, and the performance of the municipal manager in implementing the policies and by-laws;
- b) where necessary, evaluate or review the policies and by-laws, and the implementation of such policies and by-laws, in order to improve the efficiency of its credit control and debt collection mechanisms, processes and procedures; and
- c) at such intervals as may be determined by the council, report to a meeting of the council, except when the council itself performs the duties of the supervisory authority.

### ***Section 100: Implementing Authority***

The municipal manager, or – where applicable – the service provider must:

- a) implement and enforce the municipality's credit control and debt collection policies and by-laws enacted in terms of the foregoing requirements;
- b) in accordance with the credit control and debt policies and any by-laws, establish effective administrative mechanisms, processes and procedures to collect moneys due and payable to the municipality; and
- c) at such intervals as may be determined by the council, report the prescribed particulars to a meeting of the supervisory authority referred to previously.

### ***Section 101: Municipality's Right of Access to Premises***

The occupier of premises in a municipality must give an authorised representative of the municipality or of a service provider access at all reasonable times to the premises in order to read, inspect, install or repair any meter or service connection for reticulation, or to disconnect, stop or restrict the provision of any service.

### ***Section 102: Accounts***

Except where there is a dispute between the municipality and the person from whom the municipality has claimed any specific amount, a municipality may:

- a) consolidate any separate account of such person;
- b) credit a payment by such person against any account of that person; and
- c) implement any of the debt collection and credit control measures provided for in the present Act in relation to any arrears on any of the accounts of such person.

### ***Section 103: Agreements with Employees***

A municipality may, within its discretionary powers, but with the consent of any person liable to the municipality for the payment of rates or other taxes or fees for municipal services, enter into an agreement with such person's employer to deduct from the salary or wages of such person any outstanding amounts due by such person to the municipality or such regular monthly amounts as may be agreed to.

The municipality may further, within its discretionary powers, provide special incentives for employers to enter into such agreements and for employees to consent to such agreements.

### ***Section 118: Restraint on Transfer of Property***

The registrar of deeds or any other registration officer of immovable property may not register the transfer of any property other than on the production to such registration officer of a prescribed certificate issued by the municipality in which such property is situated, and which certificate certifies that all amounts due in connection with such property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.

A municipality may recover, as far as is practicable, all amounts due to it for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties, in preference to any mortgage bonds registered against any property which is to be transferred.

### ***Code of Conduct for Municipal Staff Members***

Paragraph 10 of this Code of Conduct stipulates that if any staff member of a municipality is in arrears to the municipality for rates and service charges for a period longer than 3 months, the municipality may deduct any outstanding amounts from such staff member's salary after this period.

### ***Code of Conduct for Councillors***

Section 6A of this code requires councillors to pay all rates, tariffs, rents and other moneys due to the municipality promptly and diligently.

The municipal manager is further required to notify the speaker of the council and the MEC for Local Government, in writing, whenever a councillor has been in arrears with any of these payments for a period exceeding 30 days.

## **2. LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES ACT, NO. 6 OF 2004**

### ***Section 28: Recovery of Rates in Arrears from Tenants and Occupiers***

If the rates owed by a property owner are unpaid by due date, the municipality may recover such rates, either in whole or in part, from any tenant or occupier of the property concerned.

However, the tenant or occupier of the property must first be given written notice of the municipality's intentions, and the amount which the municipality may recover is limited to the amount of rent and other moneys due and unpaid by the tenant or occupier to the property owner concerned.

### ***Section 29: Recovery of Rates from Agents***

If it is more convenient for the municipality to do so, it may recover the rates due on a property, either in whole or in part, from the agent of the property owner concerned.

However, the agent must first be given written notice of the municipality's intention, and the amount the municipality may recover is limited to the amount of

any rent and other moneys received by the agent on behalf of such property owner, less any commission due to the agent.

### **3. LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, NO. 56 OF 2003**

#### ***Section 64: Revenue Management***

The accounting officer of the municipality is responsible for the management of the municipality's revenues, and must, for this purpose, take all reasonable steps to ensure:

- a) that the municipality has effective revenue collection systems consistent with Section 95 of the Municipal Systems Act 2000 and the municipality's credit control and debt collection policies;
- b) that revenues due to the municipality are calculated on a monthly basis;
- c) that accounts for municipal taxes and charges for municipal services are prepared on a monthly basis, or less often as may be prescribed where monthly accounts are uneconomical;
- d) that all moneys received are promptly deposited in accordance with the requirements of the present Act, into the municipality's primary and other bank accounts;
- e) that the municipality has and maintains a management, accounting and information system which recognises revenues when they are due, accounts for debtors, and accounts for receipts of revenues;
- f) that the municipality has and maintains a system of internal control in respect of debtors and revenues, as may be prescribed;
- g) that the municipality charges interest on arrears, accept where the council has granted exemptions in accordance with its budget related policies and within a prescribed framework; and
- h) that all revenues received by the municipality, including revenues received by any collecting agent on its behalf, is reconciled at least on a weekly basis.

The accounting officer must immediately inform the national treasury of any payments due by an organ of state to the municipality in respect of municipal taxes or for municipal services, if such payments are regularly in arrears for periods of more than 30 days.

#### ***Note: Section 164: Forbidden Activities***

Section 164(1) (c) lists as a forbidden activity the making by a municipality of loans to councillors or officials of a municipality, directors or officials of any

municipal entity, and members of the public. It has been assumed for purposes of compiling the credit control and debt collection policy that allowing any party to pay off arrears of rates and municipal service charges is not tantamount to the making of a loan in terms of Section 164.)

#### **4. WATER SERVICES ACT NO. 108 OF 1997**

##### ***Section 21: By-Laws***

The Act requires a municipality, in its capacity as water services authority, to make by-laws which contain conditions for the provision of water services and which provide, inter alia for the following:

- a) the standard of the services;
- b) the technical conditions of supply, including quality standards, units or standards of measurement, the verification of meters, acceptable limits of error and procedures for the arbitration of disputes relating to the measurement of water services provided;
- c) the determination and structure of tariffs;
- d) the payment and collection of moneys due for the water services consumed;
- e) the circumstances under which water services may be limited or discontinued and the procedure for such limitation or discontinuation; and
- f) the prevention of unlawful connections to water services works and the unlawful or wasteful use of water.

## **ILLUSTRATIVE INDIGENT MANAGEMENT POLICY**

### **FOREWORD**

The Illustrative Indigent Management Policy set out hereunder is intended to give guidance to municipalities who have as yet not developed a comprehensive policy on the management of indigents in respect of credit control and debt collection to ensure that it is aligned to all legislation impacting on credit control and debt collection. It is stressed, however, that municipalities must carefully scrutinize each specific clause of the policy and adapt it to suit their particular requirements

### **1. OBJECTIVE**

Because of the level of unemployment and subsequent poverty in the municipal area, there are households which are unable to pay for normal municipal services. The municipality therefore adopts this indigent management policy to ensure that these households have access to at least basic municipal services, and is guided in the formulation of this policy by the national government's policy in this regard.

### **2. WHO QUALIFIES FOR INDIGENT SUPPORT**

Households where verified total gross monthly income of all occupants over 18 years of age does not exceed R1 100, or such other amount as the council may from time to time determine, qualify for a subsidy on property rates and service charges for sewerage and refuse removal, and will additionally receive 6 kl of water per month and 50 kWh of electricity per month free of charge.

Only households where the accountholder or property owner has registered as indigent in terms of the municipality's annual registration programme, and whose registration has been accepted and entered into the register of indigents, shall qualify for the above concessions.

For a household to qualify for subsidies or rebates on the major service charges (see paragraph 3 below), the registered indigent must be the full-time occupant of the property concerned, and if not also the owner of the property concerned, may not own any other property, whether in or out of the municipal area.

For a household to qualify for a rebate on rates, the registered indigent must be both the owner and fulltime occupant of the property concerned, and may not own any other property, whether in or out of the municipal area.

Indigency relief shall apply for a period not extending beyond the financial year in which the particular household is registered as indigent. Registration must be renewed in each registration programme if relief is to continue.

To register as an indigent, the relevant property owner or accountholder must personally complete and sign the registration form provided by the municipality for this purpose, and furnish such further documentation as the municipality specifies. The municipal manager will provide assistance to persons who cannot read or write, at such times and places as are specified in the notices published to indicate that the registration programme is to take place. Registration will take place on dates and at times and places determined by the council, but shall generally be undertaken during January and/or February each year.

### **3. APPLICATION OF THE POLICY**

The subsidies on rates and the specified service charges will be determined as part of each annual budget and in terms of the municipality's policies on property rates and tariffs.

In respect of water, a 100% subsidy up to 6 kl per household per month will apply; however, if consumption exceeds 6 kl per metering period (month) the consumer will be charged at normal tariffs for actual consumption on the quantity exceeding 6 kl.

In respect of electricity, a 100% subsidy up to 50 kWh per household per month will apply; however, if consumption exceeds 50 kWh per metering period (month), the consumer will be charged at normal tariffs for actual consumption on the quantity exceeding 50 kWh.

In respect of sewerage charges and charges for household refuse removal, the relief granted shall not be less than a rebate of 50% on the monthly amount billed for the service concerned.

In respect of property rates, the rebate shall be 100% of the rates based on the rateable value up to R30 000 and 75% of the rates based on the rateable value above R30 000.

### **4. NON-COMPLIANCE OF HOUSEHOLDS REGISTERED AS INDIGENT**

When a property owner or accountholder who has registered as an indigent, fails to comply with any arrangements or conditions materially relevant to the receipt of indigency relief, such person will forfeit his or her status as a registered indigent with immediate effect and will thereafter be treated as an ordinary residential property owner or accountholder for the financial year concerned.

The onus is on each registered indigent to advise the municipal manager of such failure to comply.

It may happen that even with the introduction of the indigent policy, certain households may fall into arrears in respect of the amounts due by them. The property owner or accountholder concerned will have to make immediate arrangements with the municipal manager to pay off these arrears owing within a reasonable time determined by the municipal manager in terms of the municipality's credit control and debt collection policy. If these arrangements are not made, no subsidies will be paid or free services provided, and services may be terminated in terms of the municipality's credit control and debt collection policy.

The relief to indigents may be withdrawn at the discretion of the municipal manager if:

- a registered indigent who qualifies for such relief fails to keep to the terms of the policy agreement; or
- any tampering with the installations of the municipality is detected.

If a registered indigent is found to have provided fraudulent information to the municipality in regard to any material condition for registration as an indigent, such person shall immediately be removed from the register of indigents, and shall be liable to repay to the municipality with immediate effect all indigency relief received from the date of such fraudulent registration. Moreover, such person may not again be considered for indigency relief for a period extending for 5 (five) years beyond the financial year in which the misdemeanour is detected.

Indigency relief will not apply in respect of property owners owning more than one property, whether in or outside the municipal area.

## **5. REPORTING REQUIREMENTS**

The municipal manager shall report on a monthly basis to the executive mayor or executive committee, as the case may be, for the month concerned and by municipal ward:

- a) the number of households registered as indigents and a brief explanation of any movements in such numbers;
- b) the monetary value of the actual subsidies and rebates granted;
- c) the budgeted value of the subsidies and rebates concerned; and the above information cumulatively for the financial year to date

The executive mayor or executive committee, as the case may be, shall submit the above reports on a quarterly basis to the council and to the municipalities' ward committees or monthly or more frequently to any ward committees if so requested.



### **CONCLUDING COMMENTS ON ILLUSTRATIVE POLICY**

It is stressed that the illustrative policy set out above merely includes some of the important provisions relating to indigents in regard to credit control and debt collection. Each municipality would, however, have to adjust and expand on the policy to suit its particular requirements. In addition, a clause relating to the date of acceptance by the municipal council of the policy and its date of implementation would also have to be included. Should the municipality already have an indigent management policy which it wishes to replace, the municipal council would have to pass a resolution to this effect and indicate that the new policy supersedes all previous policies that have been adopted by the council in this respect.

## DEBTORS PROCEDURES

The table hereunder sets out the procedure to be followed in regard to the processing of accounts and debtors

NO.	PROCEDURE	FREQUENCY	RESPONSIBILITY	KPI	RELEVANT POLICY
<b>1.</b>	<b>Accounts:</b>				
1.1	Accounts must be prepared according to the Council resolutions and must be posted to the consumers as soon as possible. The date for payment must appear on the account and should be a fixed day every month for example the 25 <sup>th</sup> .	Monthly	Chief Financial Officer	Yes	Credit Control and Debt Collection Policy
1.2	<p>The account must be printed on a standard form which must contain the following details:</p> <ul style="list-style-type: none"> <li>• Consumer name;</li> <li>• Consumer account No.;</li> <li>• Consumer postal address;</li> <li>• Residence/Erf details to where the service(s) have been supplied.</li> <li>• All details of services that have been supplied i.e. electricity, water, rates, refuse removal, etc.;</li> <li>• Any outstanding balance from the previous month;</li> <li>• Any reconnection / disconnection charges that may have been charged; and</li> <li>• Any interest or fines that may have accrued;</li> <li>• The rates component should be according to Section 27 of the Property Rates Act.</li> </ul>	Monthly	Chief Financial Officer	No	Credit Control and Debt Collection Policy
<b>2.</b>	<b>Age Analysis and Overdue Accounts:</b>				
2.1	Within seven days after each monthly due date the Municipal	Monthly	Chief Financial Officer	Yes	Credit Control

NO.	PROCEDURE	FREQUENCY	RESPONSIBILITY	KPI	RELEVANT POLICY
2.2	Manager must dispatch a notice to all defaulters.  The defaulter must be advised that he/she has 14 days in which to make a payment or the services will be disconnected.	Monthly	Chief Financial officer	Yes	and Debt Collection Policy  Credit Control and Debt Collection Policy
2.3	The consumer will be held liable for all disconnection and reconnection charges.	Ongoing	Chief Financial Officer	Yes	Credit Control and Debt Collection Policy
2.4	A consumer's supply may not be reconnected until such time as the following have been complied with: <ul style="list-style-type: none"> <li>• Arrear account has been paid in full, including interest;</li> <li>• Charges have been paid in full;</li> <li>• Service Contract has been entered into;</li> <li>• A cash deposit has been paid.</li> </ul>	Ongoing	Chief Financial Officer	No	Credit Control and Debt Collection Policy
2.5	Should a consumer fail to pay his/her account even once the service has been terminated, the Municipal Manager will after 28 days hand over the account for collection.	Ongoing	Chief Financial Officer	No	Credit Control and Debt Collection Policy
<b>3.</b>	<b>Receipts and Clearing of Accounts:</b>				
3.1	The official responsible for receipting of monies received from debtors must not be the official responsible for debtor's administration. The two positions must be kept separate and filled by different people. This is done in order to reduce the risks of	Ongoing	Chief Financial Officer	No	Credit Control and Debt Collection Policy

NO.	PROCEDURE	FREQUENCY	RESPONSIBILITY	KPI	RELEVANT POLICY
3.2	fraud within the Municipality.  All receipts must be correctly allocated to the relevant debtors account and furthermore the amount must be correctly allocated to the correct services paid for.	Ongoing	Chief Financial Officer	No	Credit Control and Debt Collection Policy
3.3	Any unknown receipts will be temporarily posted to an unallocated receipts account. These amounts must be traced to deposits or remittances and must be followed up by contacting the payee or bank where applicable, to verify for what or whom the payment was received.	Ongoing	Chief Financial Officer	No	Credit Control and Debt Collection Policy
3.4	The unallocated receipts account must be cleared at least on a weekly basis.	Ongoing	Chief Financial Officer	No	Credit Control and Debt Collection Policy
<b>4.</b>	<b>Bad Debts:</b>				
4.1	<p>Bad debts should only be written off on the authority of the Council after all reasonable steps have been taken to recover the debt, in accordance with the credit control and debt collection policy, and the Municipal Manager is satisfied that:</p> <ul style="list-style-type: none"> <li>• The debtor cannot be traced;</li> <li>• All legal and other measures have been exhausted, but there is still a balance of the debt remaining;</li> <li>• Recovery of the debt would be uneconomical;</li> <li>• Recovery would cause undue hardship to the debtor or his/her dependants;</li> <li>• It would be an advantage to</li> </ul>	Ongoing	Municipal Manager/Council	No	Credit Control and Debt Collection Policy

NO.	PROCEDURE	FREQUENCY	RESPONSIBILITY	KPI	RELEVANT POLICY
4.2	<p>the Municipality to effect a settlement of its claim or to waive the claim.</p> <p>All debts written off shall form a charge against the provision for bad debts, and if no or an inadequate provision exists, shall be charged as an operating expense of the vote to which the bad debt relates.</p>	Ongoing	Municipal Manager and Chief Financial Officer	No	Credit Control and Debt Collection Policy
5.	<p><b>Deposits:</b></p> <p>Any deposits made by consumers are refundable on termination of supply of services provided that all outstanding amounts have been settled. <b>A deposit will be forfeited to the Council if not claimed within 12 months.</b></p>	Ongoing	Chief Financial Officer	No	Credit Control and Debt Collection Policy

In summary it is therefore important that in regard to credit control and debt recovery that the municipality:

- i) Develops and adopts a credit/debtors control policy.
- ii) Develops and adopts an indigent policy.
- iii) Develops a Reliable database.
- iv) Takes deposits.
- v) Timeously prepares and dispatches accounts/invoices to the consumers.
- vi) Performs debtors- age analysis on monthly basis.
- vii) Follows up all debtors older than 30 days in terms of its policy.
- viii) Notifies defaulters of the intention to disconnect.